

REMARKS

This is a response to the Office Action mailed January 25, 2005. Claims 21-56 are now pending in the application. The amendments and new claims are fully supported by the written description. No new matter has been introduced into the application.

Claim Rejections – 35 U.S.C. § 112

The Examiner has rejected Claims 33 and 34 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner has found that Claim 33 lacks insufficient antecedent basis for the limitation “55.”

Applicants have amended Claim 33 so that it depends from Claim 31. Accordingly, the Section 112 rejection should be removed.

Claim Rejections – 35 U.S.C. § 102

The Examiner has rejected Claims 21, 22, 24-26, 28 and 29 under 35 U.S.C. § 102 as being anticipated by Laufer et al. (U.S. Patent Number 6,283,935). Applicants believe that this rejection should be removed because Laufer et al. does not disclose all of the limitations of Claims 21 and 28 as amended. In particular, Laufer et al. fails to disclose a method of treating an ischemic region of a patient by “creating a first lesion in the ischemic region or in the tissue of the region adjacent the ischemic region and creating a second lesion in the ischemic region or in the tissue of the region adjacent the ischemic region, and wherein the lesions have different sizes,” as recited by claim 21. Laufer et al. also fails to disclose, “wherein the concentration variance is formed by creating a first lesion in the ischemic region or in the region adjacent the ischemic region

and creating a second lesion in the ischemic region or in the region adjacent the ischemic region, and wherein the lesions have different sizes,” as recited by claim 28.

Because Laufer et al. at least fails to disclose forming a concentration gradient or variance of an angiogenesis stimulating substance by forming multiple lesions that have different sizes, Claims 21 and 28 should be allowable. Claims 22, 24, and 25 depend from claim 21 and are allowable for at least the same reason. Claim 26 depends from allowed claim 23 which has been placed in independent form. Claim 29 depends from Claim 28 and is allowable for at least the same reason.

Allowable Subject Matter

Applicants acknowledge that the Examiner has allowed Claims 31 and 32, and has found Claims 33 and 34 to be allowable over the prior art, but for the 112 issue which as been cured.

Also, the Examiner has found that Claims 23, 27 and 30 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have placed Claims 23, 27 and 30 into independent form. Accordingly, these claims should be allowable.

CONCLUSION

Examination and allowance of the claims are respectfully requested. If the Examiner has any questions or concerns, the Examiner is invited to telephone the undersigned attorney at (415) 954-0323.

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Respectfully submitted,



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